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UNCLAS SECTION 01 OF 03 ADDIS ABABA 000049

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DEPT FOR AF DAS YAMAMOTO, AF/E, AF/PD, AND DRL:K.GILBRIDE

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TAGS: [PGOV](#) [PHUM](#) [KJUS](#) [KDEM](#) [ET](#)

SUBJECT: ETHIOPIAN OPPOSITION DENIED BAIL; NEXT HEARING IN
SEVEN WEEKS

REF: A. ADDIS ABABA 4228

[1](#)B. ADDIS ABABA 4202

[1](#)1. (U) SUMMARY: After holding CUD opposition leaders, independent journalists, NGO representatives, and other individuals suspected of anti-government activity in jail for nine weeks, the High Court ruled on January 4 to reject their request for bail, and decided to schedule the next hearing in late February. The court also decided that a boy who claims he is age 14 should remain in custody pending the court's confirmation of his age, and that those not appearing in court will be tried in absentia. In response to the conspicuous absence of any defense counsels, the court instructed defendants to have counsel present or the court would appoint public defenders; defense counsels had decided to boycott the January 4 session to highlight prison officials' refusal to grant detainees access to their lawyers on December 23 (ref A). In contrast to previous sessions, the court did not allow defendants to speak on their own behalf, and quickly adjourned the session when defendants sought to make statements. Prosecutors have moved to change the venue of the court proceedings from the current location in central Addis Ababa, citing security reasons. Police officials detained at least three family members as they exited the court, in full view of diplomatic observers and over the protests of parents. END SUMMARY.

[1](#)2. (U) On January 4, nine weeks after Coalition for Unity and Democracy (CUD) party chairman Hailu Shawel and other leading opposition members were first taken into custody, Ethiopia's High Court ruled against granting bail to any of the more than 80 defendants awaiting prosecution for capital crimes ranging from "obstructing the Constitutional order" to high treason and genocide (ref B). The presiding judge noted that while defendants had cited international human rights conventions, the court also had to consider Ethiopian law and whether the gravity of the seven substantive charges being brought against the defendants allowed bail. In announcing his decision, the presiding judge explained that he rejected the defendants' argument that this was a political, rather than a criminal case; he also rejected their assertion that prosecutors had presented insufficient evidence to justify continuing detention without bail.

[1](#)3. (U) Professor Mesfin Woldemariam (age 76), who had been on a hunger strike, did not appear in court; a police official testified that his absence was due to unspecified health reasons. All the other approximately 80 detainees appeared in court, although none were allowed to speak. Hailu Shawel appeared to require assistance from other detainees in

walking from a prison vehicle to the courtroom.

¶4. (U) The court also heard a motion by prosecutors (but did not rule on it) that recommended changing the venue of the trial, from its current location at a Derg-era theater on the Ministry of Finance Compound, to an unspecified location. Prosecutors argued that the current site's proximity to schools (e.g., Addis Ababa University) was a security concern. Most courtroom observers, including family members, believe prosecutors seek to move proceedings to Kaliti prison, on the outskirts of Addis Ababa, where the defendants have been held since December 21.

POSSIBLE 14-YEAR-OLD REMAINS JAILED PENDING PROOF OF AGE

¶5. (U) The court also ruled that it would have to determine the true age of the youngest defendant. On December 28, Biniyam Tadesse testified that he was 14 years old (which would render him a minor under Ethiopian law). At the beginning of the January 4 session, the presiding judge announced that Addis Ababa's Black Lion Hospital had determined that Biniyam was actually age 16-17, and that he therefore would face the same capital charge of "Outrages against the Constitution or the Constitutional Order" as all the other defendants. Biniyam protested that he had not been examined by any medical personnel, and that, furthermore, he possessed baptismal certificates showing he was 14. Prosecutors responded that Biniyam had told police he was age 16, and that any certificates presented after the case was in progress should be disallowed. After reviewing the certificates in question, the presiding judge announced that the court would have to determine Biniyam's age through independent means. Biniyam remains in custody. (NOTE:

ADDIS ABAB 00000049 002 OF 003

Post's consular section notes that Ethiopian authorities are usually compliant and timely in providing verifications of official documents when requested; the High Court, however, did not announce that it would subpoena other records. END NOTE.)

DEFENSE COUNSELS BOYCOTT FOLLOWING DENIAL OF ACCESS

¶6. (U) The presiding judge also ruled that due to the scope of the case (i.e., 131 defendants, each facing from one to seven counts of capital crimes), defendants either needed to have their own attorneys, or the court would appoint public defenders. No defense counsels participated in the January 4 proceedings; in contrast, 16 defense attorneys appeared in court on December 21 when the defendants were formally charged, and two attended December 28.

¶7. (SBU) Defense counsels have decided not to attend court proceedings in order to underscore that they have not met with defendants since defendants were moved on December 21 to Kaliti prison. A group of 13 defense counsels attempted to see the defendants on December 23, but all were rebuffed by prison officials who required that they present specific documentation from the court designating them as the defendants' counsel (ref A). One lawyer, who returned the next day, to see another client in an unrelated criminal case, was admitted entry. In the defense counsels' view, such discrimination violates Ethiopian law, highlights the political nature of the charges against the detained CUD leadership and others, and is contrary to the prevailing practice of allowing lawyers to enter prisons to see any client, so long as they present a lawyer's license. During their December 28 court appearance, defendants raised the irregularity of requiring special credentials for their lawyers; the presiding judge also noted that the High Court had not previously been required to provide such documentation to prison officials, but took no further action

on the matter. Three jailed representatives of civil society NGOs, who seek to have their case separated from that of the other 128 defendants, have been able to have an attorney visit them; none of the other more than 80 detainees, however, has met with a lawyer since being moved to Kaliti. In a meeting with lead defense counsels on January 6 (septel), Charge and other chiefs of mission urged the defense attorneys to return to the prison and try to seek access again.

¶8. (U) Unlike previous court sessions, the presiding judge did not allow defendants to speak on their own behalf at the January 4 hearing. After announcing his three decisions (that those not present would be tried in absentia; that the court would determine the age of Biniyam Tadesse; and that defendants needed their own attorneys present), the presiding judge ordered defendant and Addis Ababa mayor-elect Dr. Berhanu Nega to stop reading a written statement on behalf of the detainees. Berhanu's protest to the court, "If you don't want to hear from me, we reject this court," led to a spontaneous outburst of applause from the more than 80 detainees. Fellow defendant Bertukan Mideksa (CUD vice chair and a former high court judge) then attempted to speak, noting that she was an attorney and could therefore represent herself. The presiding judge responded that if the defendants had something to present, they could do so at the next hearing; he then abruptly adjourned the session.

POLICE DETAIN FAMILY MEMBERS EXITING COURT

¶9. (U) Family members expressed concern to Embassy observers about the court's decision that the next proceeding would not occur for seven weeks, on February 23. As police escorted detainees out into unmarked vans, the elderly mother of a defendant cried hysterically and protested her son's innocence to diplomatic observers and media representatives. Police then detained at least three other family members as they exited the courtroom; observers identified two of them as daughters of CUD executive committee member Major Getachew Mengiste. Their mother protested that she would not leave the ministry compound without her children. She was immediately surrounded by at least a dozen police officers armed with billy clubs, who retreated upon encountering diplomatic observers lingering outside the court. Police

ADDIS ABAB 00000049 003 OF 003

then escorted Getachew's wife away. (NOTE: Defense attorneys subsequently reported that the daughters were likely detained for contempt of court, for either crossing their legs or applauding in the court, both seen by court officials as signs of disrespect. According to defense attorneys, court officials have detained others for crossing their legs in court, usually women, and then subsequently released them on bail without formally charging them. END NOTE.)

¶10. (SBU) COMMENT: Although this marks the seventh time that defendants have appeared in court, prosecutors have yet to present any formal testimony in court against the defendants, who have all been formally charged with crimes punishable by life imprisonment or death. The case against the 131 defendants (34 of whom are to be tried in absentia) remains in the pre-trial stage, nine weeks after many were first detained, and two weeks since prosecutors presented formal charges. The judge's decision to schedule the next court appearance seven weeks from now represents a significant break from the weekly hearings of the last month. The GOE appears to be concerned that the hearings are becoming a focal point for street protests, although there were no significant protests on January 4. Ongoing delays in presenting the case against the detainees, the court's refusal to allow defendants to speak on their own behalf in the absence of defense counsel, and the prosecution of at least four adolescents on capital charges, are increasingly eroding the credibility of a trial that has been

controversial from the start. END COMMENT.
HUDDLESTON